

Notice of Allowability

Application No.

09/987,706

Examiner

Nicholas D. Rosen

Applicant(s)

BOYD ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 6/20/2005.
2. ☒ The allowed claim(s) is/are 1,7-14 and 25-33.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____



DETAILED ACTION

Claims 1, 7-14, and 25-33 have been examined.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with patent attorney Kevin Shaw on September 1, 2005.

The application has been amended as follows:

In the specification:

In the fifth line of the Abstract, in the phrase "for carry out necessary analytical steps", the word "carry" is hereby replaced by **"carrying"**.

In the paragraph beginning at line 2 of page 5, "an incentive translation module ("ITM") 400, a customer segmentation module ("CUSM") 300" is hereby replaced by **"an incentive translation module ("ITM") 300, a customer segmentation module ("CUSM") 400"**. At the end of the same paragraph, "system is 100 first provided" is hereby replaced by **"system 100 is first provided"**.

In line 29 of page 8, "Customer Segmentation Module 400" is hereby replaced by **"Customer Segmentation Module 400"**.

In the paragraph beginning on line 30 of page 8, "CUSM 300" is hereby replaced by **"CUSM 400"** in the following places: page 8, line 30; page 8, line 32; page 9, line 2; page 9, line 4; page 9, line 6; page 9, line 7; page 9, line 8; page 9, line 9; page 9, line 11; page 9, line 14; page 9, line 16; and page 9, line 19.

In line 24 of page 9, "Incentive Typing Module 400" is hereby replaced by **"Incentive Typing Module 300"**.

In the paragraph beginning on line 25 of page 9, "ITM 400" is hereby replaced by **"ITM 300"** in the following places: page 9, line 25; page 9, line 26; page 9, line 27; and page 9, line 28.

In the paragraph beginning on line 1 of page 10, "ITM 400" is hereby replaced by **"ITM 300"** in the following places: page 10, line 1; page 10, line 3; and page 10, line 4.

In the paragraph beginning on line 6 of page 10, "ITM 400" is hereby replaced by **"ITM 300"** in the following places: page 10, line 6; page 10, line 7; and page 10, line 10. Additionally, on page 10, line 9, "in step 400" is hereby replaced by **"in step 300"**.

In the claims:

In claim 1, in the eighth line, "one of the consumer segment" is hereby replaced by **"one of the customer segments"**. In the ninth line of claim 1, "consumer" is hereby replaced by **"customer"**. In the eleventh line of claim 1, "consumer" is hereby replaced by **"customer"**. In the twelfth line of claim 1, "and second time periods" is hereby replaced by **"and a second time period"**. In the fifteenth line of claim 1, "model if" is hereby replaced by **"model when"**. In the sixteenth line of claim 1, "a predefined

completeness criteria" is hereby replaced by **"a predefined completeness criterion"**.

In the twentieth line of claim 1, "dependent to sales" is hereby replaced by **"dependent on sales"**. In the twenty-third line of claim 1, "number criteria" is hereby replaced by **"number criterion"**.

In claim 25, in the ninth line, "first consumer segment" is hereby replaced by **"first customer segment"**; and "second consumer segment" is hereby replaced by **"second customer segment"**. In the eleventh line of claim 25, "consumer segments" is hereby replaced by **"customer segments"**; and "and second time periods" is hereby replaced by **"and a second time period"**. In the thirteenth line of claim 25, "is selected if" is hereby replaced by **"is selected when the analysis determines that"**. In the fourteenth line of claim 25, "a predefined completeness criteria" is hereby replaced by **"a predefined completeness criterion"**. In the twentieth line of claim 25, "number criteria" is hereby replaced by **"number criterion"**.

Claims 34-38 are hereby cancelled without prejudice or disclaimer.

Allowable Subject Matter

Claims 1 and 7-14 are allowed.

Claims 25-33 are allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Cunningham et al. (U.S. Patent 6,029,139), discloses a method for evaluating a promotion scheme for a product, the method comprising the steps of: using a computer, which must therefore have been provided (e.g., column 1, line 64, through

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column 2, line 7); collecting market data to create a model of a market for the product, wherein said market model identifies at least one competing good, and customer segments are defined for said product and competing goods (column 1, lines 19-27; column 6, lines 32, through column 8, line 64); collecting historical transaction data related to the product and competing goods in the market (column 4, line 62, through column 5, line 10; column 11, lines 42-54); analyzing the historical data and the model to determine a utility of the product without the promotion scheme (column 12, lines 26-35); and estimating a change in utility of the product from the promotion scheme (column 12, lines 44-51). Multiplicative and attractive models are known, and have their reported advantages with respect to each other (Naert and Weverbergh, "On the Predictive Power of Market Share Attraction Models"; Brodie and de Kluyver, "Attraction Versus Linear and Multiplicative Market Share Models: An Empirical Evaluation"). However, neither Cunningham nor any other prior art of record discloses or suggests a computer or a person analyzing historical data; determining on the basis of the historical data whether (a) the historical transaction data satisfies a predefined completeness criterion, (b) sales of the product and sales of the competing goods are statistically dependent, (c) sales of the product and sales of the competing goods during a first time period are statistically dependent on sales of the product and the competing good during the second time period, or (d) a number of the product and the competing goods exceeds a predefined number criterion; and selecting a multiplicative model when at least one of (a)-(d) is met; otherwise selecting an attractive model. Determining whether a predefined number or completeness criterion is met, or whether data sets are

statistically dependent, is of course known, but not using the determination in the manner recited.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Blume et al. (U.S. Patent 6,839,682) disclose predictive modeling of consumer financial behavior using supervised segmentation and nearest-neighbor matching.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas D. Rosen

**NICHOLAS D. ROSEN
PRIMARY EXAMINER**

September 2, 2005